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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,426	12/31/2001	Michael Dutka		5712

7590 08/25/2006

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EXAMINER

STINSON, FRANKIE L

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/032,426	Applicant(s) DUTKA ET AL.	
	Examiner FRANKIE L. STINSON	Art Unit 1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-6 and 23-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-6 and 23-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The indicated allowability of claims 4-6 and 24-32 is withdrawn in view of the newly discovered reference(s) to Dubois, Dalrymple, and Leigh. Rejections based on the newly cited reference(s) follow.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4-6 and 23-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Leigh (U. S. Pat. No. 605,229), Dubois (U. S. Pat. No. 165,986) or Dalrymple (U. S. Pat. No. 406,269) in view of either Japan'678 (Japan 9-182678) or Isaacson et al. (U. S. Pat. No. 3,173,664).

Re claims 1 and 35, Leigh, Dubois and Dalrymple are each cited disclosing a device for washing or rinsing articles powered by the filling of said device with water or any other liquid from a continuously-running source (8 in Leigh, "E" in Dubois and "D" in Dalrymple used in the process of such washing or rinsing, comprising: a vessel (as at 4 in Leigh, "A" in Dubois and "B" in Dalrymple) in which said washing or rinsing takes place; a means (9 in Leigh, "B" in Dubois and "C" in Dalrymple) for emptying said vessel of liquid after it has washed or rinsed said article and allowing refilling of said vessel, such means operating periodically and cyclically without attention from any person during said rinsing or washing operation; and a stand (2 in Leigh, "G" in Dubois and "A" in Dalrymple) upon which said vessel is placed during said washing or rinsing operation; said stand cooperating with said vessel during said washing or rinsing operation that

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differs from the claims only in the recitation of the means for keeping the foodstuff/article inside the vessel during the washing or rinsing operations. The patents to Isaacson and Japan'678 are each cited disclosing in a cleaning device, the arrangement of providing a means (100 in Isaacson and 19 in Japan'664) for keeping the articles washed or rinsed inside the vessel during said washing or rinsing operation. It therefore would have been obvious to one having ordinary skill in the art to modify the device of either Leigh, Dubois and Dalrymple, to included means for keeping the articles in the vessel as taught by either Isaacson or Japan'678, for the purpose of preventing the articles from inadvertently exiting the vessel during the washing or rinsing thereof. As for the washing of foodstuffs, the same is deemed to a mere a statement of intended use and therefore, is of little patentable weight (see MPEP 2111.02, II. **PREAMBLE**

STATEMENTS RECITING PURPOSE OR INTENDED USE The claim preamble must be read in the context of the entire claim. The determination of whether preamble recitations are structural limitations or mere statements of purpose or use "can be resolved only on review of the entirety of the [record] to gain an understanding of what the inventors actually invented and intended to encompass by the claim." Corning Glass Works, 868 F.2d at 1257, 9 USPQ2d at 1966. If the body of a claim fully and intrinsically sets forth all of the limitations of the claimed invention, and the preamble merely states, for example, the purpose or intended use of the invention, rather than any distinct definition of any of the claimed invention's limitations, then the preamble is not considered a

limitation and is of no significance to claim construction. *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165 (Fed. Cir. 1999)). Re claims 4 and 5, Leigh and Dalrymple disclose the chamber and extension, with no barrier. Re claims 6, 23 and 24, Isaacson and Japan'678 disclose the screen. Re claim 25, Dubois discloses the extension and screen ("N"). Re claim 26, to have the screen covering only a portion of the chamber is deemed to be a mere extension of the teachings of either Isaacson of Japan'678. Re claims 27, 28 and 29, Isaacson and Japan'678 disclose the removable screen. To have the screen attached by clips is deemed to be an obvious matter of design in that the attaching means as claimed and the attaching means as taught by either Isaacson and Japan'678, are deemed to be the functional equivalents of each other. This is also applicable to the subject matter of claims 30-34, and the corresponding structure in Dubois.

4. Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In Mackie, Ferrari, Jr., Shores, Ranson, SU'721, Yego, Jr., Long, Japan'418, Japan'203, Randall, Nafziger, Adey and Lyman, note the cleaning means.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKIE L. STINSON whose telephone number is (571) 272-1308. The examiner can normally be reached on M-F from 5:30 am to 2:00 pm and some Saturdays from approximately 5:30 am to 11:30 am.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr, can be reached on (571) 272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

fls


FRANKIE L. STINSON
Primary Examiner
GROUP ART UNIT 1746